

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 JUL 25 AM 10:44

UNITED STATES OF AMERICA,

Plaintiff,

v.

David GUTIERREZ-Lopez,

Defendant

Magistrate Docket No. 08 MJ 2265
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COMPLAINT FOR VIOLATION OF DEPUTY

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **July 24, 2008** within the Southern District of California, defendant, **David GUTIERREZ-Lopez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **25th DAY OF JULY, 2008**



Leo S. Papas
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

David GUTIERREZ-Lopez

PROBABLE CAUSE STATEMENT

On July 24, 2008, Border Patrol Agent B. Belzer was performing his assigned duties in the Pine Valley, California area of responsibility. Agent Belzer responded to seismic intrusion device located Northeast of the Tecate, California Port of Entry.

Agent Belzer arrived in the area and found fresh footprints. Agent Belzer followed the footprints north until he found four individuals hiding in brush. Agent Belzer identified himself as a United States Border Patrol Agent and questioned each subject as to their citizenship and immigration status, including one later identified as the defendant **David GUTIERREZ-Lopez**. All four subjects including GUTIERREZ, admitted to being citizens and nationals of Mexico without any immigration documents to enter or remain in the United States legally. At approximately 8:15 a.m., GUTIERREZ and the other three individuals, were arrested and transported to the Border Patrol Station in Pine Valley, California for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **April 14, 2008** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.